

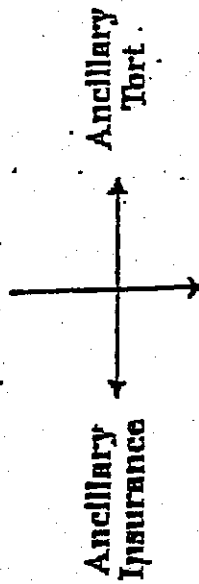
Wayne Miller

Michigan Auto Reparations System

OLD SYSTEM

(Pure Fault)

Plaintiff / Claimant



At Fault Driver

- A.) Medical Expenses
- B.) Wage Loss
- C.) Pain and Suffering

NO FAULT SYSTEM

(Oct. 1, 1973)

Plaintiff / Claimant



No Fault Benefits

- A.) Medical Benefits
- B.) Wage Loss
- C.) Replacement Services

At Fault Driver

A.) Pain and Suffering
But only if:

- 1.) Death
- 2.) Permanent Serious Disfigurement
- 3.) Serious Impairment of Body Function

Changes effective 3/28/96

§ 500.3135. Tort liability for noneconomic loss; action for damages pursuant to subsection (1); abolition of tort liability; exceptions; action for damages pursuant to subsection (3)(d); commencement of action; removal; costs; decision as res judicata; "serious impairment of body function" defined. [MSA § 24.13135]

Sec. 3135. (1) A person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.

(2) For a cause of action for damages pursuant to subsection (1) filed on or after **◆ [July 26, 1996]**, all of the following apply:

(a) The issues of whether an injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(i) There is no factual dispute concerning the nature and extent of the person's injuries.

(ii) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function or permanent serious disfigurement. However, for a closed-head injury, a question of fact for the jury is created if a licensed allopathic or osteopathic physician who regularly diagnoses or treats closed-head injuries testifies under oath that there may be a serious neurological injury.

(b) Damages shall be assessed on the basis of comparative fault, except that damages shall not be assessed in favor of a party who is more than 50% at fault.

(c) Damages shall not be assessed in favor of a party who was operating his or her own vehicle at the time the injury occurred and did not have in effect for that motor vehicle the security required by section 3101 at the time the injury occurred.

(3) Notwithstanding any other provision of law, tort liability arising from the ownership, maintenance, or use within this state of a motor vehicle with respect to which the security required by section 3101 was in effect is abolished except as to:

(a) Intentionally caused harm to persons or property. Even though a person knows that harm to persons or property is substantially certain to be caused by his or her act or omission, the person does not cause or suffer that harm intentionally if he or she acts or refrains from acting for the purpose of averting injury to any person, including himself or herself, or for the purpose of averting damage to tangible property.

(b) Damages for noneconomic loss as provided and limited in subsections (1) and (2).

(c) Damages for allowable expenses, work loss, and survivor's loss as defined in sections 3107 to 3110 in excess of the daily, monthly, and 3-year limitations contained in those sections. The party liable for damages is entitled to an exemption reducing his or her liability by the amount of taxes that would have been payable on account of income the injured person would have received if he or she had not been injured.

[(d) Damages for economic loss by a nonresident in excess of the personal protection insurance benefits provided under section 3163(4). Damages under this subdivision are not recoverable to the extent that benefits covering the same loss are available from other sources, regardless of the nature or number of benefit sources available and regardless of the nature or form of the benefits.]

(e) ◆ Damages up to \$500.00 to motor vehicles, to the extent that the

damages are not covered by insurance. An action for damages pursuant to this subdivision shall be conducted in compliance with subsection (4).

(4) In an action for damages pursuant to subsection **◆ [(3)(e)]**:

(a) Damages shall be assessed on the basis of comparative fault, except that damages shall not be assessed in favor of a party who is more than 50% at fault.

(b) Liability shall not be a component of residual liability, as prescribed in section 3131, for which maintenance of security is required by this act.

(5) Actions under subsection **◆ [(3)(e)]** shall be commenced, whenever legally possible, in the small claims division of the district court or the municipal court. If the defendant or plaintiff removes the action to a higher court and does not prevail, the judge may assess costs.

(6) A decision of a court made pursuant to subsection **◆ [(3)(e)]** is not res judicata in any proceeding to determine any other liability arising from the same circumstances as gave rise to the action brought pursuant to subsection **◆ [(3)(e)]**.

(7) As used in this section, "serious impairment of body function" means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life.